

Chapter 20

STATE ETHICS CODE

Revised January 2, 2009

The entire provisions of the Code of governmental Ethics can be found at the following:

LRS 42: 1101 - 1170

CHAPTER 15. CODE OF GOVERNMENTAL ETHICS

The following is a draft of some of the rules. For the complete set, please review LRS 42:1101-1170. They can be found on the LMA Website under publications.

R.S. 42:1111 - Payment from nonpublic sources

Public servant/legal entity is prohibited from:

- receiving anything of economic value from the governmental entity other than compensation/benefits to which he is entitled for performance of the duties/responsibilities of his office. (**A(1)**)
- receiving anything of economic value from a person whom public servant has directed business of the public entity. (**B**)
- receiving anything of economic value for any service devoted substantially to the responsibilities, programs or operations of the agency of the public servant and in which public servant participated; or draws upon official data or ideas which have not become public information. (**C(1)**)
- No Public Servant/Legal entity which servant owns in excess of 25% shall receive anything of economic value for or in consideration of services rendered/to be rendered to or for any person during his public service unless services are:
 - a. Bona fide and actually performed by public servant;
 - b. Not within scope of official duties
 - c. Not prohibited by RS 42:1112 or other applicable laws
 - d. Neither performed for nor compensated by any person from whom servant is prohibited from RS 42:1115(A)(1) or (B) from receiving a gift. (**2)(a-d)**)

Exception - Elected official not prohibited for not more than 90 days from commencement of initial term from receiving compensation for completion of a contract/subcontract entered into prior to initial election to office.

Must submit written statement with established terms of contract to governmental entity and Board of Ethics within 30 days of taking office. **(4)**

- cannot receive directly/indirectly anything of economic value during term in consideration of personal services to be rendered to or any person subsequent to term of office.. (may enter into prospective employment contract unless prohibited by 42:1116) **(D)**
- No public servant/legal entity which he has substantial economic interest, or is an officer, director, trustee, partner, etc. shall receive anything of economic value for assisting person in any transaction or appearance of assistance with the agency of the public servant **(E)(1)**
- Prohibited from receiving or agreeing to receive anything of economic value for assisting/appear to assist person in connection with transaction with the entity or its officials/agencies, unless a written sworn statement is filed with the board prior or 10 days after initial assistance rendered. Board shall review statement to determine any deficiencies or possible violations **(E) (2) (a-c)**

RS 42:1112 - PARTICIPATION IN CERTAIN TRANSACTIONS INVOLVING GOVERNMENTAL ENTITY

- No public servant (exc.42:1120) shall participate in a transaction which he has a substantial economic interest he may reasonably expect to know involves the governmental entity **(A)**
- No public servant (Exc.42:1120) shall participate in a transaction involving the governmental entity when to his actual knowledge, the following have a substantial economic interest:
 1. Any immediate family member
 2. Any person in which he has a substantial economic interest of which he may reasonably be expected to know
 3. Any person of which he is an officer, director, trustee, partner or employee
 4. Any person with whom he is negotiating or has an arrangement re: prospective employment
 5. Any person who is a party to an existing contract with a public servant/legal entity which servant exercises control/owns interest in excess of 25%;

- owes any thing of economic value to such public servant/or to legal entity in which public servant exercises control/or owns an interest in excess of 25%
 - and who by reason thereof is in position to affect directly the economic interest of such public servant. **(B)**
- Every public employee (exc. appointed member of board/commission) shall disqualify himself from participating in a transaction involving governmental entity when violation of this part would result. **(C)**

RS 42:1113 - PROHIBITED CONTRACTUAL ARRANGEMENTS

- No public servant, (excl. Legislator/app. board/commission member/parish gov. authority member with pop. Less than 10,000) or member of public servant's immediate family/legal entity in which owns a controlling interest shall
 - Bid on/enter into any (sub)contract or other transaction under the supervision/jurisdiction of the agency of public servant **(A)**
- (Other than a legislator) no appointed member of any board or commission/immediate family member/legal entity which he has a substantial economic interest shall
 - bid on or enter into or be in any way interested in any (sub)contract or other transaction which is under the supervision/jurisdiction of the agency of app. member. **(B)**

RS 42:1113(D)(1-2) allows for legislators or their legal entities to enter into contractual arrangements if the (sub)contract is awarded on a competitive basis or is competitively negotiated through a proposal process found in state law. With respect to local government officials, RS 42:1113 contains an outright prohibition.

RS 42:1114 - FINANCIAL DISCLOSURE

- Each public servant/immediate family member who derives anything of economic value, directly, through any transaction involving the agency of public servant/or derives any thing of economic value of which he may be reasonably expected to know through a person which
 - is regulated by the agency of such public servant, or
 - has bid on/entered into or is in any way financially interested in any (sub)contract/transaction under supervision/jurisdiction of the agency of the public servant shall disclose:

- Amount of income or value of any thing of economic value derived
 - Nature of business activity
 - Name/address & relationship to public servant (if applicable)
 - Name/business address of legal entity (if applicable) **(A)**
- Each elected official, spouse, any business enterprise in which he has a substantial economic interest, who derives anything of economic value through a (sub)contract from state/any political subdivision shall disclose
 - Amount of income or value of anything of economic value derived
 - Nature of business activity
 - Name/address/relationship to the elected official (if applicable)
 - Name/business address of political subdivision (if applicable) **(C)**
- Disclosures shall be filed each year with board of ethics by May 1 and include info for previous calendar year **(E)**

RS 42:1114.3 - DISASTER OR EMERGENCY CONTRACTS; DISCLOSURE.

- (Except as in Sub. B) Each elected official...immediate family member of an elected official...who derives either directly/through legal entity in which official/immediate family member owns **10%** or more, any thing of economic value through any (sub)contract related to gubernatorially declared disaster/emergency and which official/immediate family member knows/reasonably should know is/may be funded in whole/part with federal funds shall disclose
 - If elected/appointed official, name & address of the official and office held by such person
 - if immediate family member of official, name address of person, office of the elected official and the relationship to the official. **(A)(1)**
- If a legal entity, name & business address of legal entity, percentage of official's/family members interest, office of elected official and relationship to official **(A)(2)**
- Nature of (sub)contract including amount of (sub)contract and description of goods/services provided pursuant to (sub)contract **(A)(3)**
- Amount of income/value of any thing of economic value derived through (sub)contract by official/family member for the previous calendar year (exc. In Sub. C) **(A)(4)**
- No person shall be required to disclose receipt of anything of economic value if amount is less than \$2500. Prohibited from multiple (sub)contracts with same entity to avoid disclosure requirements. **(B)**

- Initial disclosure statements must be filed with Board of Ethics no later than 30 days after the (sub)contract is entered into, followed by annual disclosure statements filed annually no later than Feb. 15 of each year. Required to be filed until (sub)contract is completed or public official is no longer in office, whichever occurs first. Not applicable to (sub)contracts entered into before becoming elected to office. All statements subject to public records and failure to file subject to civil penalties. (C) (D)(1-4) (E)(1-2)

RS 42:1115 - GIFTS

- No public servant shall solicit/accept, directly/indirectly, any thing of economic value as a gift/gratuity from any person or from any officer, director, agent, or employee of such person, if public servant knows/should reasonably know such person is:
 - has/is seeking to obtain contract or other business relationship with public servant's agency
 - Is seeking, for compensation, to influence passage/defeat of legislation by public servants agency (A)(1-2)
- No public employee shall solicit/accept, directly/indirectly, anything of economic value as a gift/gratuity from any person or any officer, employee, etc. of such person, if employee knows or reasonably should know
 - Conducts operations or activities which are regulated by public employee's agency
 - has substantial economic interest which may be substantially affected by the (non)performance of public employee's official duty (B)(1-2)

RS 42:1116 - ABUSE OF OFFICE

- No public servant shall solicit/accept directly/indirectly in manner intended to compel/coerce any person or other public servant to provide himself or other public servant or other person with any thing of economic value (A)
- No public servant shall use the authority of his office/position, directly/indirectly, in manner intended to compel/coerce any person or other public servant to engage in political activity (B)
- No regulatory employee shall participate in any way in sale of goods and services to person regulated by his public agency, or to any officer, director, employee of such person, if an immediate family member of the regulatory employee or any business enterprise in which reg. employee or member of immediate family owns at least 25%, receives or will receive thing of economic value by virtue of sale. (C)

RS 42:1117 - ILLEGAL PAYMENTS

- No public servant or other person shall give, pay, loan, transfer, or deliver or offer to give, directly or indirectly, to any public servant or other person any thing of economic value which the public official would be prohibited from receiving.

42:1118 - INFLUENCING ACTION BY LEGISLATURE OR GOVERNING AUTHORITY

- No public servant shall solicit or receive any thing of economic value, directly/indirectly, for, to be used by him/immediate family member principally to aid in
 - The accomplishment of the passage/defeat of any matter affecting...the governing authority
 - the influencing, directly/indirectly of passage or defeat of any matter by the governing authority

42:1119 - NEPOTISM

- No member of the immediate family of an agency head shall be employed by his agency **(A)**
- No member of the immediate family of a member of the governing authority or chief executive of a governmental entity shall be employed by the entity **(B)(1)**

(B)(2- 2ii) pertains to school boards and hospital districts

● EXCEPTIONS:

- persons serving in public employment on effective date of this section and would be in violation, may continue employment and section would not be construed to hinder or alter normal promotional advancements **(B)(2)**
- Section shall not hinder the continued employment or any normal promotional advancements of public employee where a member of the employee's immediate family becomes agency head provided the employee has been employed at least 1 year prior to the agency head's appointment.
- Shall not apply to hiring of immediate family members or members of a governing authority of a municipality with a population of less than 2000 and owns an electrical or gas distribution system. The member of the governing authority shall recuse himself from any decision involving the related employee. Applicable only after proper advertisements have been made and no other qualified resident has applied for position. **(B)(4)**

42:1120 - RECUSAL FROM VOTING

- If any elected official in discharging his duties would be required to vote on a matter in violation of RS 42:1112, he shall recuse himself from voting.
- Shall not be required to recuse himself if he files a written statement describing
 - matter in question, nature of the conflict/potential conflict, and reasons why, despite the conflict, the official is able to cast a vote that is fair and objective. **(A)**
 - Statement shall be filed within 3 days of the vote with the clerk of the governing authority and the statement shall be recorded in the official minutes **(A)**

IN ORDER TO REVIEW THE FINANCIAL DISCLOSURE RULES YOU CAN GO TO

<http://www.ethics.state.la.us/>

For your information,

Tier 1 must report by May 15, 2009 for the 2008 year

Tier 2 must report by May 15, 2009 for the 2008 year

Tier 2.1 must report by May 15, 2009 for the 2008 year

Tier 3 must report by May 15, 2010 for the 2009 year